

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

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| ROY PHILLIPS, |) | ED95720 |
| |) | |
| Movant/Appellant, |) | Appeal from the Circuit Court |
| v. |) | of Cape Girardeau County |
| |) | |
| STATE OF MISSOURI, |) | Honorable Benjamin F. Lewis |
| |) | |
| Respondent/Respondent. |) | Filed: September 13, 2011 |

Roy Phillips (Movant) appeals from the motion court's denial without an evidentiary hearing of his amended Motion to Vacate, Set Aside or Correct the Judgment and Sentence filed pursuant to Missouri Rule of Criminal Procedure 24.035.

On appeal, Movant alleges his plea counsel was ineffective for (1) failing to take certain actions on his behalf and pressuring him to plead guilty due to a financial conflict of interest, and (2) failing to request a change of judge.

AFFIRMED.

Division Three Holds: Movant has failed to allege facts supporting his claims which are not clearly refuted by the record or that would entitle him to relief. The record demonstrates that Movant was satisfied with his plea counsel's services, and that a motion for change of judge for cause would have not have been granted and, thus, is not a basis for a claim of ineffective assistance of counsel.

Opinion by: Sherri B. Sullivan, J. Robert G. Dowd, Jr., P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: Andrew E. Zleit

Attorneys for Respondent: Shaun J. Mackelprang and Jamie P. Rasmussen

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| THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED. |
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